

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

EDWIN EARL GRAYSON and §
TYSON LEE GRAYSON §
Plaintiffs, § Civil Action No. 1:21-cv-00439
V. §
SKYLARK LOGISTICS, INC., §
SANDEEP SINGH CURRY, and §
RAJINDER KAUR LAMEY §
Defendants. §

NOTICE OF REMOVAL AND MOTION TO TRANSFER VENUE

TO THE HONORABLE COURT:

COME NOW Defendants Skylark Logistics, Inc., Sandeep Singh Curry and Rajinder Kaur Lamey, and file their Notice of Removal and Motion to Transfer Venue and would respectfully show unto the Court as follows:

BACKGROUND

1. This lawsuit arises from an accident involving two commercial vehicles that occurred on April 3, 2020 in Bruceville-Eddy, McLennan County, Texas.¹

PROCEDURAL HISTORY

2. Plaintiffs filed suit in Cause No. D-1-GN-21-001295, in the 250th Judicial District Court of Travis County, Texas on March 24, 2021.

3. Defendant Skylark Logistics, Inc. has not yet been served with Plaintiffs' Original Petition. Defendant Skylark Logistics, Inc. filed a timely answer subject to a Motion to Transfer Venue on May 10, 2021.

¹ The Crash Report for the subject accident is attached hereto as Exhibit "A" and is incorporated herein by this reference.

4. Defendants Sandeep Singh Curry and Rajinder Kaur Lamey were served with Plaintiffs' Original Petition through the Texas Secretary of State. Defendants Sandeep Singh Curry and Rajinder Kaur Lamey filed an answer subject to a Motion to Transfer Venue on May 10, 2021.

5. Defendant Skylark Logistics, Inc. has filed this Notice of Removal within the time period required by 28 U.S.C. § 1446(b).

NATURE OF THE SUIT

6. Plaintiffs allege that on or about April 3, 2020, they sustained damages as a result of a commercial vehicle accident that occurred in Bruceville-Eddy, McLennan County, Texas.

7. According to Plaintiffs' Original Petition, Plaintiff Edwin Earl Grayson is a part-time citizen of the State of Texas. *See* Plaintiffs' Original Petition, section II, paragraph 3. The Texas Peace Officer's Crash Report also states Plaintiff Earl Grayson is a resident of Bend, Oregon with an Oregon driver's license. *See* Exhibit A.

8. According to Plaintiffs' Original Petition, Plaintiff Tyson Lee Grayson is a part-time citizen of the State of Texas. *See* Plaintiffs' Original Petition, section II, paragraph 4.

9. At all relevant times, Defendants Sandeep Singh Curry and Rajinder Kaur Lamey were Canadian citizens residing in Woodstock, Canada. *See* Plaintiffs' Original Petition, section II, paragraphs 6 and 7.

10. At all relevant times, Skylark Logistics, Inc. was a company with its principal place of business in Cambridge, Ontario, Canada. *See* Plaintiffs' Original Petition, section II, paragraph 5; and Exhibit B, Affidavit

11. Skylark Logistics, Inc. did not maintain a place of business in the State of Texas. *See* Plaintiffs' Original Petition, section II, paragraph 5; and Exhibit B, Affidavit

12. Defendant Skylark Logistics, Inc. is a company incorporated under the laws of Ontario, Canada. *See* Exhibit B, Affidavit.

BASIS FOR REMOVAL

13. Removal is proper because there is complete diversity of citizenship between Plaintiffs and Defendants.

14. Plaintiffs were part-time citizens of the State of Texas. *See* Plaintiffs' Original Petition, section II, paragraphs 3 and 4.

15. Defendants Sandeep Singh Curry and Rajinder Kaur Lamey are individuals who at the time the lawsuit was filed, and at the time of the filing of Defendants' Notice of Removal, were domiciled in Woodstock, Ontario, Canada. At all relevant times, Defendants established their citizenship and residence in Ontario, Canada where they currently live. *See* Plaintiffs' Original Petition, section II, paragraphs 6 and 7.

16. Defendant Skylark Logistics, Inc. is a company incorporated under the laws of Ontario, Canada, whose principal place of business has at all relevant times been maintained in Cambridge, Ontario, Canada and whose citizenship is in Ontario, Canada. *See* Plaintiffs' Original Petition, section II, paragraph 5; and Exhibit B, Affidavit

17. As set forth in Plaintiffs' Original Petition, the amount in controversy exceeds \$1,000,000, exclusive of interests, costs, and attorneys' fees. *See* Plaintiffs' Original Petition, section I, paragraph 2.

18. All of the named Defendants consent to this removal.

VENUE AND JURISDICTION

19. The Plaintiffs selected Travis County to file their lawsuit in the present case,

despite it having no real connection to the accident or any party. Plaintiffs allege venue to be proper because “all or a substantial part of the events giving rise to the claim occurred there”. As shown by the Texas Peace Officer’s Crash Report, the accident made the basis of this lawsuit occurred in McLennan County, Texas. *See Exhibit A, Texas Peace Officer’s Crash Report.*

20. Defendants challenge the venue chosen by Plaintiffs and move to remove this case subject to their Motion to Transfer Venue, *infra*. However, Defendants are required to remove the case to the present division pursuant to 28 U.S.C. § 1441(a) because this district and division represent the location in which the removed action has been pending.

21. This Court has jurisdiction of this action by virtue of the provisions of 28 U.S.C. § 1332 in that this is a case of diversity of citizenship between the parties with the amount in controversy exceeding \$75,000.00, exclusive of interest and costs. *See generally Garcia v. Koch Oil of Texas, Inc.*, 351 F.3d 636, 638 (5th Cir. 2003).

**DEFENDANTS’ NOTICE OF REMOVAL
IS PROCEDURALLY CORRECT**

22. Defendants have attached to this notice all process, pleadings and orders filed in the state court action as required by 28 U.S.C. §1446(a). *See Exhibit C, Index of Matters Being Filed.*

JURY DEMAND

23. Plaintiffs made a demand for a jury trial in State District Court. Defendants also made a demand for a jury trial in State District Court.

NOTICE TO STATE COURT

24. Defendants will promptly file a copy of this Notice of Removal with the Clerk of the State Court in which this action is pending.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the following person(s), in the manner(s) indicated below:

VIA FACSIMILE: 713/739-8347
And/or VIA E-SERVICE
Micky N. Das
Tyler & Das
1811 Bering Drive, Suite 225
Houston, Texas 77057

VIA FACSIMILE: 903/893-5558
And/or VIA E-SERVICE
Christopher Rehmet
Tate Rehmet Law Office, P.C.
2902 N. U.S. Highway 75
Sherman, Texas. 75090

and in accordance with the Federal Rules of Civil Procedure, on the 18th day of May, 2021.

/s/ Lynn S. Castagna
Lynn S. Castagna